

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MARVELLE BROWN,

ORDER

Plaintiff,

12-cv-571-wmc

v.

MARILYN SCHWAB,

Defendant.

The court is in receipt of defendant Marilyn Schwab's notice of removal. (Dkt. #1.) Represented by the United States Attorney, defendant contends that removal is proper pursuant to 28 U.S.C. § 1442(a)(1), which provides for the removal of civil actions “[a]gainst officer of the United States or any agency thereof, or person acting under him, for any act under color of such office or an account of any right, title or authority claimed under any Act of Congress for . . . the collection of revenue.” The underlying action involves a claim for harassment between co-workers at the VA Hospital in Madison, Wisconsin, in which a temporary restraining order was issued to petitioner Brown by the Dane County Circuit Court against respondent Schwab. (Dkt. #1-2.) The notice of removal is devoid of any explanation of the underlying factual or legal basis for invoking § 1442(a)(1). For example, there is no indication that Schwab (1) is an “officer” or a “person acting under that officer”; (2) acted “under color of such office”; or (3) acted for the purpose of the “collection of revenue.” On the contrary, Marvelle Brown’s relationship with superiors at the VA Hospital, and the dispute between the parties described in the State Court petition seems personal in character.

As such, the court orders defendant to file a brief on or before Friday, August 23, 2012 describing the factual basis for removal in detail and providing supporting legal argument.

Entered this 15th day of August, 2012.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge